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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Petition for Clarification and )  
Modification of Pay-per-call Rules )

RM-7990

FILE

COMMENTS OF AMERICAN  
TELEPHONE AND TELEGRAPH COMPANY

Pursuant to the Commission's June 2, 1992 Public Notice,\* American Telephone and Telegraph Company ("AT&T") hereby responds to the petition filed April 30, 1992 by thirty-four state attorneys general and the 900 Number Subcommittee of the Consumer Protection Committee of the National Association of Attorneys General. The petition requests that the Commission: (i) "clearly affir[m]" that services using interstate 800 transport are subject to the regulations adopted in the Pay-per-Call Services Order,\*\* and (ii) prohibit interstate carriers from providing 800 transmission service for applications in which callers are billed premium charges through the use of tone generation technology, automatic number identification ("ANI") or "billing detail information."

\* Public Notice, DA 92-602, released June 2, 1992.

\*\* In the Matter of Policies and Rules Concerning Interstate 900 Telecommunications Services, 6 FCC Rcd. 6166 (1991) ("Pay-per-Call Services Order").

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As AT&T has shown, the requested clarification of the scope of the Commission's pay-per-call regulations is unnecessary.\* Although those rules as initially proposed were limited to interstate 900 calls, AT&T and other parties supported the application of these consumer safeguards to other interstate transmission services, including 800 services.\*\* In response to these comments, the Pay-per-Call Services Order explicitly held that the preamble and other disclosure requirements adopted in that proceeding "apply to all interstate pay-per-call services," regardless of the dialing prefix used for such calls.\*\*\* As the Commission explained, there is "no valid technical or legal reason" why pay-per-call services should not be subject to these requirements "simply because they are on an exchange other than 900."\*\*\*\* Thus, no change to the existing Commission rules is required.

The petitioners' additional request for "modification" of the Commission's rules to prohibit entirely the use of interstate 800 transmission services

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\* See AT&T Response to Petition for Clarification or Modification, CC Docket No. 91-65, filed May 11, 1992.

\*\* See AT&T Reply Comments, CC Docket No. 91-65, filed May 24, 1991, p. 14.

\*\*\* Pay-per-Call Services Order, 6 FCC Rcd. at 6179 (emphasis added).

\*\*\*\* Id. at 6180.

for certain pay-per-call applications raises new and different issues from those addressed when the Commission's rules were adopted. Recent modifications to AT&T's 800 service tariff, however, accomplish the purpose of the proposed modification (at least for AT&T's services), which is to ensure that callers are not charged for 800 service calls without their knowledge or consent.

Since its inception in 1967, AT&T's 800 service has been widely advertised and provided as a toll-free service to callers. Indeed, toll-free calling is one of the most important marketing developments for consumers and suppliers in the last twenty five years. Today, 49 percent of AT&T's 800 service calls are for sales and order-taking, 21 percent for product and service inquiries, 19 percent for internal company use, and 11 percent for other uses, such as credit card authorizations. Toll-free 800 service calling has grown at an annual rate of ten percent a year, and is estimated to account for one of every three calls placed using AT&T's network. As a result of the widespread use of 800 service, customers have legitimately come to expect that when they dial an 800 number, they will not be charged for the call.

AT&T's tariffs describe 800 service as being "without charge to the caller,"\* and AT&T's recent tariff

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\* AT&T Tariff F.C.C. No. 2, Section 3.1.2.A.

revisions strengthen that description by specifying that it is an abuse of AT&T 800 service to use the service:

"[I]n a manner that would result in (a) the calling party being assessed, by virtue of completing the call, a charge for the call, or (b) the calling party being charged for information conveyed during the call; unless in either (a) or (b) the calling party has a preexisting agreement to be charged or discloses a credit or charge card number during the call."\*

AT&T's tariffs thus prohibit the use of AT&T's 800 service in the manner contemplated by the rules proposed by the petitioners, and authorize withdrawal of 800 service from customers who violate this prohibition. Although a rule change is therefore unnecessary for AT&T, the Commission may consider the possibility that other carriers' 800 service may be used in a way that would result in a charge to the caller for the call. To the extent these carriers elect to file the necessary tariff changes to ensure that callers are not charged for 800 calls, the time and expense of a rulemaking could be avoided.

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\* Id. at Section 2.2.3.C.

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CONCLUSION

For all these reasons, the Commission should reaffirm that the pay-per-call rules apply to 800 service, but a rulemaking proceeding would not be needed if carriers act to ensure in their tariffs that 800 service callers are not charged for 800 calls.

Respectfully submitted,

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July 8, 1992